

(i) Gray wolf (*Canis lupus*).

(1) The gray wolves (wolf) identified in paragraph (i)(~~7~~)(8) of this section are nonessential experimental. “Nonessential experimental wolves” shall mean all wolves identified in paragraph (i)(8) of this section. These wolves will be managed in accordance with the respective provisions of this section.

(2) The Service finds that reintroduction of nonessential experimental gray wolves, as defined in (i)(~~7~~)(8) of this section, will further the conservation of the species.

(3) Definitions. For purposes of this subsection, the following definitions shall apply:

(i) “Designated by the Service” means State or Tribal wildlife management agencies which, by agreement between the State or Tribal wildlife management agency and the Service, have agreed to assume responsibility or be involved in the management of a portion of the nonessential experimental wolf population.

(ii) “Home Range” means the winter and summer range, including all travel corridors, of a population, or designated herd, of wild ungulates as defined by the management authority of the State or Tribe with authority to manage the population or designated herd.

(iii) “In the Act” includes actual biting, wounding, grasping, molesting, harassing, or killing or reasonable belief that such is imminent;

(iv) “Livestock” includes cattle, sheep, horses, mules, goats, swine, rabbits, poultry, herding or guard animals, llamas, donkeys, and certain special-use breeds of dogs commonly used for guarding or herding livestock or sport hunting, and other domestic animals, or other animals generally used to feed or in the production of food and fiber, or as otherwise defined in any State or Tribal wolf management plan that has been approved by the Service.

(v) “Nonessential experimental wolves” shall mean all wolves identified in paragraph (i)(8) of this section

(vi) “Noninjurious” means not causing either temporary or permanent physical damage or death;

(vii) “Opportunistic harassment” means harassment without the conduct of prior purposeful action to attract, track, wait for, or search out a gray wolf.

(viii) “Problem wolf or wolf pack” means a wolf or wolf pack that has attacked livestock or once in a calendar year attacks domestic animals other than livestock;

(A) “Chronic Problem wolf or wolf pack ” means a problem wolf or wolf

pack that has attacked livestock or once in a calendar year attacks domestic animals other than livestock after having been relocated as a “problem wolf.”

(ix) “Unacceptable Impacts to Wild Ungulates” includes, any decline in an ungulate population, or designated herd, so that such population, or designated herd, is not meeting established State population management goals or recruitment that maintains the populations objective and allows recreational harvest. Whether the decline in the population, or a designated herd of wild ungulates, constitutes an “unacceptable impact” shall be determined by the State or Tribal management authority and shall be based upon the best available science.

(x) “Wounded” means exhibiting torn flesh, bleeding, or other evidence of physical damage or harm caused by a wolf bite or other wolf activity.

(3)(4) No person may take this species in the wild in an experimental population area except as provided in paragraphs (i)(3)(4),(7)(8), and (8)(9) of this section.

(i) Landowners on their private land and livestock producers (i.e., producers of cattle, sheep, horses, and mules or as defined in State and tribal wolf management plans as approved by the Service) that are legally using public land (Federal land and any other public lands designated in State and tribal wolf management plans as approved by the Service) may harass any wolf in an conduct opportunistic noninjurious harassment (the wolf cannot be purposely attracted, tracked, waited for, or searched out, then harassed) and noninjurious (no temporary or permanent physical damage may result) manner at any time, *Provided* that such harassment is non-lethal or is not physically injurious to the gray wolf and is must be reported within 7 days to the Service project leader for wolf reintroduction or agency representative designated by the Service.

(ii) Any landowner, livestock producers on their private land, or permittees or livestock producers who are legally using public lands under valid livestock grazing allotments on public lands, may take (including to kill or injure) a wolf in the act of killing, wounding, or biting livestock (cattle, sheep, horses, and mules, or as defined in State and tribal wolf management plans as approved by the Service), *Provided* that such incidents are to be immediately reported within 24 hours to the Service project leader for wolf reintroduction or agency representative designated by the Service, and livestock freshly (less than 24 hours) wounded (torn flesh and bleeding) or killed by wolves must be evident. Service or other Service authorized agencies will confirm if livestock were wounded or killed by wolves. The taking of any wolf without such evidence may be referred to the appropriate authorities for prosecution.

(iii) Upon application to the Service, any landowner or livestock producer shall

receive a written permit from the Service, or other agencies designated by the Service, valid for up to one (1) year, to take (including to kill or injure) wolves on private property. The landowner or livestock producer shall be entitled to such permit upon application and proof that:

(A) at least one wolf depredation (a wolf has killed livestock) on the landowner or livestock producer's private property or adjacent private private property, or;

(B) wolves are routinely present around the area and present a risk to the health or safety of livestock or other domestic animals.

Take pursuant to such a permit must be reported immediately within 24 hours to the Service project leader for wolf reintroduction or agency representative designated by the Service. The Service shall not deny a permit, or charge a fee for such permit if the conditions of this paragraph are satisfied. *Provided*, the applicant shall not be entitled to such permit if there are 30 or less breeding pairs of nonessential experimental wolves as determined by the best available scientific information.

~~(iii) (iv) Upon application to the Service, any livestock producer or permittee with livestock grazing allotments who is legally using public lands under valid livestock grazing allotments on public land may shall receive a written permit, valid for up to 45 days one (1) year, from the Service or other agencies designated by the Service, to take (including to kill or injure) a wolf wolves on public land. that is in the act of killing, wounding, or biting livestock (cattle, sheep, horses, and mules, or as defined in State and tribal wolf management plans as approved by the Service), *Provided* that six or more breeding pairs of wolves have been documented in the experimental population area and the Service or other agencies authorized by the Service has confirmed that the livestock losses were caused by wolves and have completed agency efforts to resolve the problem. The applicant shall be entitled to a permit upon application and proof that:~~

~~(A) at least one wolf depredation (a wolf has killed livestock) on the grazing allotment or adjacent public land, or;~~

~~(B) wolves are routinely present around the area and present a risk to the health or safety of livestock.~~

~~Such Take pursuant to such a permit must be reported immediately within 24 hours to the Service project leader for wolf reintroduction or agency representative designated by the Service. There must be evidence of freshly wounded or killed livestock by wolves. Service or other Service authorized agencies will investigate and determine if the livestock were wounded or killed by wolves. The taking of any wolf without such evidence may be referred~~

~~to the appropriate authorities for prosecution. The Service shall not deny a permit, or charge a fee for such permit if the conditions of this paragraph are satisfied. *Provided*, the applicant shall not be entitled to such permit if there are 30 or less breeding pairs of nonessential experimental wolves as determined by the best available scientific information.~~

~~(iv) Potentially affected States and tribes may capture and translocate wolves to other areas within an experimental population area as described in paragraph (i)(7), *Provided* the level of wolf predation is negatively impacting localized ungulate populations at an unacceptable level. Such translocations cannot inhibit wolf population recovery. The States and tribes will define such unacceptable impacts, how they would be measured, and identify other possible mitigation in their State or tribal wolf management plans. These plans must be approved by the Service before such movement of wolves may be conducted.~~

(v) The Service, or agencies authorized by the Service, ~~may~~ shall promptly remove  
(place in captivity or kill) any wolf the Service or agency authorized by the Service determines to present a threat to human life or safety.

(A) ~~The Service, or agencies designated by the Service, shall take any wolf that presents a threat to human safety. The Service shall respond within 48 hours to any report of a wolf or wolf pack that is a threat to human health or safety. Such response shall include taking whatever management action is required by these rules. Failure of the Service to respond within the time limits proscribed by this rule with regard to the report of a threat to human health or safety shall authorize the State or Tribal management authority to take such reasonable actions necessary including, but not limited to, all management actions required under subparagraph (i)(4)(v), to resolve the threat to human health or safety.~~

(vi) Any person may harass or take (kill or injure) a wolf in self defense or in defense of others, *Provided* that such take is reported immediately (within 24 hours) to the Service reintroduction project leader or Service designated agent. ~~The taking of a wolf without an immediate and direct threat to human life may be referred to the appropriate authorities for prosecution.~~

(A) ~~The Service, or agencies designated by the Service, shall take any wolf that is a “demonstrable,” but nonimmediate threat to human safety. The Service shall respond within 48 hours to any report of a wolf or wolf pack that is a demonstrable, but nonimmediate threat to human health or safety. Such response shall include taking whatever management action is required by these rules. Failure of the Service to respond within the time limits proscribed by this rule with regard to the report of a demonstrable, but nonimmediate threat to human health or safety shall authorize the~~

State or Tribal management authority to take such reasonable actions necessary including, but not limited to, all management actions required under subparagraph (i)(4)(v), to resolve the demonstrable, but nonimmediate, threat.

(vii) The Service or agencies designated by the Service may shall take wolves or wolf packs that are determined to be problem wolves or wolf packs. Problem wolves are defined as wolves that in a calendar year attack livestock (cattle, sheep, horses, and mules); or as defined by State and tribal wolf management plans approved by the Service or wolves that twice in a calendar year attack domestic animals (all domestic animals other than livestock). Authorized take includes lethal control (killing) and relocating wolves consistent with these rules, but is not limited to non-lethal measures such as: aversive conditioning, nonlethal control, and/or translocating wolves. Such taking may be done when five or fewer breeding pairs are established in a experimental population area. If the take results in a wolf mortality, then evidence that the mortality was nondeliberate, accidental, nonnegligent, and unavoidable must be provided. When six or more breeding pairs are established in the experimental population area, lethal control of problem wolves or permanent placement in captivity will be authorized but only after other methods to resolve livestock depredations have been exhausted. Depredations occurring on Federal lands or other public lands identified in State or tribal wolf management plans and prior to six breeding pairs becoming established in an experimental population area may result in capture and release of the female wolf with pups, and her pups at or near the site of capture prior to October 1. All wolves on private or public land, including female wolves with pups, may be relocated or moved to other areas within the experimental population area if continued depredation occurs shall be subject to the take provisions of this subparagraph. Wolves attacking domestic animals other than livestock, including pets on private land, two or more times in a calendar year will be relocated. All chronic problem wolves or wolf packs (wolves that depredate on domestic animals after being moved once for previous domestic animal depredations) will shall be removed from the wild (killed or placed in captivity). The following three criteria will be used in determining the status of problem wolves within the nonessential experimental population area: The Service or agencies designated by the Service shall respond to any report of a wolf or wolf pack depredating livestock or domestic animals within 24 hours.

(A) There must be evidence of wounded livestock or partial remains of a livestock carcass that clearly shows that the injury or death was caused by wolves. Such evidence is essential since wolves may feed on carrion which they found and did not kill. There must be reason to believe that additional livestock losses would occur if no control action is taken;

(B) There must be no evidence of artificial or intentional feeding of wolves. Improperly disposed of livestock carcasses in the area of depredation will be considered attractants. Livestock carrion or carcasses on public land, not being used

~~as bait under an agency authorized control action, must be removed or otherwise disposed so that it will not attract wolves;~~

~~(C) On public lands, animal husbandry practices previously identified in existing approved allotment plans and annual operating plans for allotments must have been followed.~~

Provided the Service or agencies designated by the Service shall not be obligated to, but may, lethally control wolves pursuant to this paragraph if the number of breeding pairs of nonessential experimental wolves falls below 30 breeding pairs according to the best available scientific information.

(viii) *Take in Response to Negative Impacts on State or Tribal Feed Grounds.* The Service or agencies designated by the Service shall take nonessential experimental wolves that are observed biting, wounding, grasping, molesting, harassing, killing, or otherwise causing reactions that result in substantial expense of energy by, wild ungulates feeding, wintering, or otherwise utilizing feed grounds established and maintained by a state or tribal management authority. If there are more than 30 breeding pairs of nonessential experimental wolves, the Service or agencies designated by the Service shall lethally control any wolf causing negative impacts on State or Tribal feed grounds. If there are 30 or less breeding pairs on nonessential experimental wolves, the Service or agencies designated by the Service shall relocate wolves to a location within the Greater Yellowstone Management Area or the central Idaho area, *provided:*

(A) no wolf may be relocated within the Home Range of any population, or designated herd, of wild ungulates which has previously been determined by the State or Tribal wildlife management authority to have experienced unacceptable impacts;

(B) In no event may the Service or agencies designated by the Service relocate wolves pursuant to this subparagraph to a location within ten miles of an existing State or Tribal feed ground, and;

(C) The Service shall respond within 48 hours to any report of a wolf or wolf pack causing negative impacts on a State or Tribal feed ground. Such response shall include taking whatever management action is required by these rules. Failure of the Service to respond within the time limits proscribed by this rule with regard to the report of negative impacts on State or Tribal feed grounds shall authorize the State or Tribal management authority to take such reasonable actions necessary including, but not limited to, all management actions required under subparagraph (i)(4)(viii), to resolve the negative impacts on State or Tribal feed grounds.



(ix) Take in Response to Negative Impacts on Wild Ungulate Populations or Designated Herds. If wolves are causing unacceptable impacts to populations, or designated herds, of wild ungulates, the Service or agencies designated by the Service shall take nonessential experimental wolves. Such take may only occur within the geographic area described as the “Home Range” for a population, or designated herd, of wild ungulates, as defined by the State or Tribal wildlife authority designated by state or tribal law to manage wild ungulates. If there are more than 30 breeding pairs of nonessential experimental wolves, the Service or agencies designated by the Service shall lethally control any wolf causing unacceptable impacts on a population, or designated herd, of wild ungulates. If there are 30 or less breeding pairs of nonessential experimental wolves, the Service or agencies designated by the Service shall relocate wolves to a location within the Greater Yellowstone Management Area or the central Idaho area which is not part of Home Range of a population, or designated herd, of wild ungulates previously determined by the State or Tribal wildlife management authority to have experienced unacceptable impacts, but the Service may lethally control such wolves, *provided*:

(A) In no event may the Service or agencies designated by the Service relocate wolves pursuant to this subparagraph to a location within ten miles of an existing State or Tribal feed ground.

(B) The Service shall respond within 48 hours to any report of a wolf or wolf pack causing unacceptable impacts on a population, or designated herd, of wild ungulates. Such response shall include taking whatever management action is required by these rules. Failure of the Service to respond within the time limits proscribed by this rule with regard to the report of unacceptable impacts on a population, or designated herd or wild ungulates shall authorize the State or Tribal management authority to take such reasonable actions necessary including, but not limited to, all management actions required under subparagraph (i)(4)(ix), to resolve the unacceptable impacts on a population, or designated herd, of wild ungulates.

~~(viii) (x) Any person may take a nonessential experimental gray wolf found in an area defined in paragraph (i)(7), *Provided* that the take is incidental to an otherwise lawful activity, accidental, unavoidable, unintentional, not resulting from negligent conduct lacking reasonable due care, and due care was exercised to avoid taking a gray wolf. Such taking is to be reported within 24 hours to a Service or Service-designated authority. Take that does not conform with such provisions may be referred to the appropriate authorities for prosecution.~~

~~(ix) (xi) Service or other Federal, State, or tribal personnel may receive written authorization from the Service to take animals under special circumstances. Wolves may be live captured and translocated to resolve demonstrated conflicts with ungulate populations~~

~~or with other species listed under the Act, or when they are found outside of the designated experimental population area. Take procedures in such instances would involve live capture and release to a remote area or placement in a captive facility, if the animal is clearly unfit to remain in the wild. Killing of wolves will be a last resort and is only authorized when live capture attempts have failed or there is clear endangerment to human life.~~

~~(x)~~ (xii) Any person with a valid permit issued by the Service ~~under §17.32~~ may take wolves in the wild in the experimental population area, pursuant to terms of the permit.

~~(xi)~~ (xiii) Any employee or agent of the Service or appropriate Federal, State, or tribal agency, who is designated in writing for such purposes by the Service, when acting in the course of official duties, may take a wolf from the wild within the experimental population area, if such action is for:

(A) Scientific purposes;

(B) To relocate wolves to avoid conflict with human activities;

(C) To relocate wolves within the experimental population areas to improve wolf survival and recovery prospects;

(D) To relocate wolves that have moved outside the experimental population area back into the experimental population area;

(E) To aid or euthanize sick, injured, or orphaned wolves;

(F) To salvage a dead specimen which may be used for scientific study; or

(G) To aid in law enforcement investigations involving wolves.

~~(xii)~~ (xiv) Any taking pursuant to this section must be reported immediately (within 24 hours) to the appropriate Service or Service- designated agency, which will determine the disposition of any live or dead specimens.

~~(4)~~ (5) Human access to areas with facilities where wolves are confined may be restricted at the discretion of Federal, State, and tribal land management agencies. When five or fewer breeding pairs are in an experimental population area, land-use restrictions may also be employed on an as-needed basis, at the discretion of Federal land management and natural resources agencies to control intrusive human disturbance around active wolf den sites. Such temporary restrictions on human access, when five or fewer breeding pairs are established in an experimental population area, may be required between April 1 and June 30, within 1



mile of active wolf den or rendezvous sites and would only apply to public lands or other such lands designated in State and tribal wolf management plans. When six or more breeding pairs are established in an experimental population area, no land-use restrictions may be employed outside of national parks or national wildlife refuges, unless wolf populations fail to maintain positive growth rates toward population recovery levels for 2 consecutive years. If such a situation arose, State and tribal agencies would identify, recommend, and implement corrective management actions within 1 year, possibly including appropriate land-use restrictions to promote growth of the wolf population.

~~(5)~~ (6) No person shall possess, sell, deliver, carry, transport, ship, import, or export by any means whatsoever, any wolf or part thereof from the experimental populations taken in violation of the regulations in paragraph (i) of this section or in violation of applicable State or tribal fish and wildlife laws or regulations or the Endangered Species Act.

~~(6)~~ (7) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed any offense defined in this section.

~~(7)~~ (8) The site for reintroduction is within the historic range of the species:

(i) The central Idaho area is shown on the following map. The boundaries of the nonessential experimental population area will be those portions of Idaho that are south of Interstate Highway 90 and west of Interstate 15, and those portions of Montana south of Interstate 90, Highway 93 and 12 from Missoula, Montana west of Interstate 15.

(ii) The Yellowstone Management Area is shown on the following map. The boundaries of the nonessential experimental population area will be that portion of Idaho that is east of Interstate Highway 15; that portion of Montana that is east of Interstate Highway 15 and south of the Missouri River from Great Falls, Montana, to the eastern Montana border; and all of Wyoming.

(iii) All wolves found in the wild within the boundaries of this paragraph (i)~~(7)~~(8) after the first releases will be considered nonessential experimental wolves ~~animals~~. In the conterminous United States, a wolf that is outside an experimental area (as defined in paragraph (i)~~(7)~~(8) of this section) would be considered as endangered (or threatened if in Minnesota) unless it is marked or otherwise known to be an experimental animal; such a wolf may be captured for examination and genetic testing by the Service or Service-designated agency. Disposition of the captured animal may take any of the following courses:

(A) If the animal was not involved in conflicts with humans and is determined likely to be an experimental wolf, it will be returned to the reintroduction area.

(B) If the animal is determined likely to be an experimental wolf and was involved in conflicts with humans as identified in the management plan for the closest experimental area, it may be relocated, placed in captivity, or killed.

(C) If the animal is determined not likely to be an experimental animal, it will be managed according to any Service approved plans for that area or will be marked and released near its point of capture.

(D) If the animal is determined not to be a wild gray wolf or if the Service or agencies designated by the Service determine the animal shows physical or behavioral evidence of hybridization with other canids, such as domestic dogs or coyotes, or of being an animal raised in captivity, it will be returned to captivity or killed.

~~(8)~~ (9) The reintroduced wolves will be monitored during the life of the project, including by the use of radio telemetry and other remote sensing devices as appropriate. All released animals will be vaccinated against diseases and parasites prevalent in canids, as appropriate, prior to release and during subsequent handling. Any animal that is sick, injured, or otherwise in need of special care may be captured by authorized personnel of the Service or Service-designated agencies and given appropriate care. Such an animal will be released back into its respective reintroduction area as soon as possible, unless physical or behavioral problems make it necessary to return the animal to captivity or euthanize it.

~~(9)~~ (10) The status of the experimental population will be reevaluated within the first 3 years, after the first year of releases of wolves, to determine future management needs and if further reintroductions are required. This review will take into account the reproductive success and movement patterns of the individuals released in the area, as well as the overall health and fate of the experimental wolves. Once recovery goals are met for ~~downlisting or delisting the species~~, a rule ~~will~~ shall be proposed to ~~address downlisting or delisting the wolves described in this section.~~

~~(10)~~ (11) The Service does not intend to reevaluate the ``nonessential experimental" designation. The Service does not foresee any likely situation which would result in changing the nonessential experimental status until the gray wolf is recovered and delisted in the northern Rocky Mountains according to provisions outlined in the Act. However, if the wolf population does not demonstrate positive growth toward recovery goals for 2 consecutive years, the affected States and tribes, in cooperation with the Service, would, within 1 year, identify and initiate wolf management strategies, including appropriate public review and comment, to ensure continued wolf population growth toward recovery levels. All reintroduced wolves designated as nonessential experimental will be removed from the wild and the experimental population status and regulations revoked when (i) legal actions or

lawsuits change the wolves status to endangered under the Act or (ii) within 90 days of the initial release date, naturally occurring wolves, consisting of two breeding pairs that for 2 consecutive years have each successfully raised two offspring, are discovered in the experimental population area. The naturally occurring wolves would be managed and protected as endangered species under the Act.

(12) The Service shall compensate the owner of livestock for injury, damage or loss of livestock caused by nonessential experimental wolves. The compensation amount shall be based upon the fair market value of the livestock. The owner of the livestock shall submit a claim for payment, along with all supporting documentation, ("claim") to the Service and the claim must be sworn to, under oath. The claim shall be based upon the best information available to the owner as to all injury, damage or loss of livestock caused by nonessential experimental wolves. The Service shall accept, modify or reject the claim within thirty (30) days of receipt of the claim. The Service shall pay the claim as accepted or modified within thirty (30) days of accepting or modifying the claim.